IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6779 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BABU DEVSHIBHAI KOLI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6779 of 2004

MR SUNIL C PATEL for Petitioner No. 1

MS HB PUNANI, LD. AGP for Respondent No. 1-3

RULE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 03/12/2004

ORAL JUDGEMENT

Heard ld. Mr.S.C. Patel, learned counsel appearing for the petitioner and Ms.H.B.Punani, ld.AGP,

appearing on behalf of the respondents.

2. By this petition under Article 226 read with Articles 21 and 22(5) of the Constitution of India, the petitioner has challenged the legality and validity of the order of detention dated 17th May, 2004 passed by the Commissioner of Police, Rajkot City, in exercise of the powers conferred on him under Section 3(2) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as 'the Act') against the petitioner. The petitioner is branded as "bootlegger" as defined under Section 2(b) of the Act.

3. It has been submitted by ld. counsel Mr. Patel appearing for the petitioner that the present petitioner is a co-detenu of petitioner of Special Civil Application No.6771 of 2004 and both the petitioner-detenus came to be detained under the Act vide impugned order of detention on the same grounds. It is further submitted by ld. counsel Mr.Patel that today, this Court has quashed and set aside the impugned order of detention mainly on three grounds while dealing with the aforesaid petition i.e. Spl.C.A. No.6771 of 2004, filed by the co-detenu Bhupat Devshibhai Koli today i.e. on 01.12.2004. The petitioner came to be detained under the Act on the single solitary offence being C.R. No.26 of 2004 registered with Rajkot Taluka Police Station. Along with the petitioner-detenu, in connection with the said offence, another person was also arrested and detained under the Act. In view of above, it has been submitted by ld. counsel Mr.Patel that on the ground of parity also present petitioner being co-detenu is required to be released, over and above the grounds mentioned in the aforesaid petition which are practically same which are advanced in the above-referred writ petition filed by the co-detenu. Ld. counsel appearing for the petitioner has also taken this Court through the grounds raised in the memo of this petition and arguments advanced which are practically similar to those raised in the aforesaid petition filed by the co-detenu.

4. So, adopting the reasons assigned by this Court in Spl.C.A. No.6771 of 2004, preferred by co-detenu decided by this Court today i.e. on 01.12.2004, and also on the ground of parity, the present petition requires to be allowed and impugned order of detention requires to be quashed and set aside.

5. In view of the above, the petition is allowed. The order of detention dated 17th May, 2004, passed by the respondent no.2 herein, is hereby ordered to be

quashed and set aside and the petitioner-detenu is hereby ordered to be set at liberty forthwith, if no longer required in any other case. Rule is made absolute with no order as to costs. Direct Service is permitted.

Registry is directed to place copy of decision of this Court in Spl.C.A. No.6771 of 2004 with the papers of this petition.

(C.K. Buch, J)

Aakar